

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

ESCORT INC.,

Plaintiff,

v.

UNIDEN AMERICA CORPORATION,

Defendant.

Case No. 3:18-cv-161-N

**APPENDIX IN SUPPORT OF PLAINTIFF'S BRIEF SUPPORTING ITS RESPONSE IN
OPPOSITION TO UNIDEN AMERICA CORPORATION'S MOTION TO STRIKE
PORTIONS OF DR. CHRIS BARTONE'S EXPERT REPORTS**

Description	Appendix Page(s)
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Uniden's First Set of Interrogatories to Escort (July 8, 2019) (excerpted)	Appx1551-1554
Declaration of Timothy Grochocinski	Appx1555-1556

DATED: May 14, 2020

Respectfully submitted,

/s/ Timothy E. Grochocinski

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served on counsel for all parties of record on May 14, 2020 via the Court's CM/ECF system.

/s/ Timothy E. Grochocinski

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LOCAL RULES as of [December 1, 2019]¹**

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(b) Requests seeking to elicit from the patent claimant a comparison of the asserted claims and the accused apparatus, product, device, process, method, act, or other instrumentality;

(c) Requests seeking to elicit from an accused infringer a comparison of the asserted claims and the prior art; and

(d) Requests seeking to elicit from an accused infringer the identification of any opinions of counsel, and related documents, that it intends to rely upon as a defense to an allegation of willful infringement.

Where a party properly objects to a discovery request (or declines to provide information in its initial disclosures under Fed.R.Civ.P. 26(a)(1)) as set forth above, that party shall provide the requested information on the date on which it is required to provide the requested information to an opposing party under these Patent Rules, unless there exists another legitimate ground for objection.

2-6. Assignment of Related Cases. Separately filed cases related to the same patent shall be assigned to the same judge, i.e., the judge assigned to the first related case.

3. PATENT INITIAL DISCLOSURES

3-1. Disclosure of Asserted Claims and Infringement Contentions.

Not later than 10 days before the Initial Case Management Conference with the Court, a party claiming patent infringement must serve on all parties a "Disclosure of Asserted Claims and Infringement Contentions." Separately for each opposing party, the "Disclosure of Asserted Claims and Infringement Contentions" shall contain the following information:

(a) Each claim of each patent in suit that is allegedly infringed by each opposing party;

(b) Separately for each asserted claim, each accused apparatus, product, device, process, method, act, or other instrumentality ("Accused Instrumentality") of each opposing party of which the party is aware. This identification shall be as specific as possible. Each product, device, and apparatus must be identified by name or model number, if known. Each method or process must be identified by name, if known, or by any product, device, or apparatus which, when used, allegedly results in the practice of the claimed method or process;

(c) A chart identifying specifically where each element of each asserted claim is found within each Accused Instrumentality, including for each element that such party contends is governed by 35 U.S.C. § 112(6), the identity of the structure(s), act(s), or material(s) in the Accused Instrumentality that performs the claimed function;

(d) Whether each element of each asserted claim is claimed to be literally present or present under the doctrine of equivalents in the Accused Instrumentality;

(e) For any patent that claims priority to an earlier application, the priority date to which each asserted claim allegedly is entitled; and

(f) If a party claiming patent infringement wishes to preserve the right to rely, for any purpose, on the assertion that its own apparatus, product, device, process, method, act, or other instrumentality practices the claimed invention, the party must identify, separately for each asserted claim, each such apparatus, product, device, process, method, act, or other instrumentality that incorporates or reflects that particular claim.

3-2. Document Production Accompanying Disclosure.

With the "Disclosure of Asserted Claims and Infringement Contentions," the party claiming patent infringement must produce to each opposing party or make available for inspection and

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C.A. No. 3:18-cv-00161-N

PATENT CASE

JURY TRIAL DEMANDED

DEFENDANT'S FIRST SET OF INTERROGATORIES TO PLAINTIFF (NOS. 1–20)

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure and this Court's Discovery Order, Defendant Uniden America Corporation ("Uniden") hereby requests that Plaintiff Escort Inc. ("Plaintiff" or "Escort") answer each interrogatory set forth below, in writing and under oath, within thirty (30) days of service hereof, in accordance with the definitions and instructions below.

DEFINITIONS

1. "Plaintiff," "Escort," "You," or "Your" means Escort Inc., including past and present officers, directors, employees, agents, consultants, predecessors, subsidiaries, parents, affiliates, and contractors.
2. "Defendant" or "Uniden" means Defendant Uniden America Corporation, including all officers, directors, employees, agents, consultants, predecessors, and subsidiaries.
3. "Asserted Patents" means United States Patent Numbers RE39,038, RE40,653, and 7,576,679.
4. "Related Patents" means:

testing, evaluation, or analysis; the results of such inspection, testing, evaluation, or analysis, identifying the Documents (by Bates number) reflecting those results; and any conclusion(s) or opinion(s) formed as a result of each inspection, testing, evaluation, or analysis.

INTERROGATORY NO. 4:

Describe in complete detail the circumstances surrounding all actual or potential licenses, offers to license, or settlement agreements (collectively, “agreements or offers”) relating to the Asserted Patents, including whether or not such agreements or offers were executed, and for each such agreement or offer: the parties to the agreement or offer; all patents that were the subject of the agreement or offer and any terms exchanged between You and the other party; whether the agreement or offer included a provision requiring the marking of the number of the Asserted Patents on any article; and the parties to the negotiations, the status (actual or potential) of each agreement or offer (including date of execution, expiration, and/or termination of any such agreement or offer), and the date of all such discussions; and the identity of all Persons with knowledge thereof and all Documents (by Bates number) referring or relating thereto.

INTERROGATORY NO. 5:

Separately for each Asserted Claim of the Asserted Patents, describe in complete detail the conception and reduction to practice of the invention, including the identity of the priority date, conception date, date(s) of due diligence and reduction to practice, and invention date of each Asserted Claim; the facts supporting any such date(s), including any Related Patents providing priority; the identification of all Persons with knowledge of such date(s); and state the facts believed by Escort to be known by each Person identified.

INTERROGATORY NO. 6:

Identify all U.S. and foreign patents and patent applications, including unpublished applications, that are owned, in whole or in part, or licensed to Escort, that are directed to any of

Accused Product, including identifying all Documents (by Bates number) supporting your contention and an identity of all Persons with knowledge.

Dated: July 8, 2019

Respectfully submitted,

FISH & RICHARDSON P.C.

By: /s/ David B. Conrad

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**COUNSEL FOR DEFENDANT
UNIDEN AMERICA CORPORATION**

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above and foregoing document has been served on July 8, 2019, to all counsel of record who are deemed to have consented to electronic service.

/s/ David B. Conrad
David B. Conrad

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ESCORT INC.,

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Case No. 3:18-cv-161-N

**DECLARATION OF TIMOTHY E. GROCHOCINSKI IN SUPPORT OF PLAINTIFF
ESCORT INC.'S BRIEF SUPPORTING ITS RESPONSE IN OPPOSITION TO UNIDEN
AMERICA CORPORATION'S MOTION TO STRIKE PORTIONS OF DR. CHRIS
BARTONE'S EXPERT REPORTS**

Pursuant to 28 U.S.C. § 1746, I, Timothy E. Grochocinski, declare as follows:

1. My name is Timothy E. Grochocinski. I am a partner in the law firm of Nelson Bumgardner Albritton P.C., attorneys for Plaintiff Escort Inc. ("Escort") in the above-styled action.

2. I submit this declaration in support of Escort's Response in Opposition to Uniden America Corporation's ("Uniden's") Motion to Strike Portions of Dr. Chris Bartone's Expert Reports, Escort's attendant Brief in Support, and Escort's Appendix, which are each filed concurrently herewith. I am familiar with the documents exchanged and produced by the parties in this action and have personal knowledge of the facts and statements herein. I am competent to testify to the matters stated in this declaration, and each of the facts and statements set forth below is true and correct.

3. Included within the accompanying Appendix are true and correct copies of the following documents:

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E.D. Tex. L.P.R. 3-1	Appx1547-1550
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4. Escort initially responded to Uniden's Interrogatory No. 5 on September 6, 2019. Escort then supplemented its response to Interrogatory No. 5 on October 24, 2019 and again on October 29, 2019.

5. Escort's Second Supplemental Response to Interrogatory No. 5, which was served on October 29, 2019, was served before the close of fact discovery, before Uniden deposed Escort, and before Uniden deposed the inventor of the patents-in-suit, Mr. Hoyt Fleming.

6. The fact that Escort intended to rely on an earlier conception date, and its basis for the same, was disclosed by Escort in Escort's L.P.R. 3-2 document production.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated: May 14, 2020

/s/ Timothy E. Grochocinski